**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-04-5116.M5**

MDR Tracking Number: M5-04-0095-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 9-8-02.

The IRO reviewed sensory nerve conduction tests, somatosensory testing, group therapeutic procedures, electrical stimulation, therapeutic activities, joint mobilization, myofascial release, and office visits from 12-6-02 through 4-9-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO concluded that the sensory nerve conduction tests, somatosensory testing, electrical stimulation, joint mobilization, myofascial release, office visits, two units of therapeutic activities, and one unit of group therapeutic procedures from 12-6-02 through 4-9-03 were medically necessary. The IRO concluded that the remaining units of group therapeutic procedures and therapeutic activities were not medically necessary. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor $460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 11-26-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

| DOS | CPT CODE | Billed | Paid | EOB Denial Code | MAR$ (Max. Allowable Reimbursement) | Reference | Rationale |
|---|---|---|---|---|---|---|---|
| 3/14/03 | 95925-27 | $165.00 | $122.50 | F | $175.00<br>-27 reimb is 70% | Rule 133.307(g)(3)(A-F) | Lower Extremity Nerve Conduction Report supports delivery of service. 70% of $165.00 = $116.00; therefore, no additional reimbursement recommend. |
| | 95935-27 x 2<br>95935-27-H x 2 | $100.00 x 4 | $70.00 x 2 and $37.10 x 2 | | $53.00 H or F reflex study<br>F = max 4 limbs<br>H = max 2 | | Electrodiagnostic Results supports delivery of service. 70% of $53.00 = $37.00 x 4 = $148.00; therefore, no additional reimbursement recommended. |
| | 95900-27 x 2 | $100.00 x 2 | $70.00 x 2 | | $64.00 ea motor nerve | | Electrodiagnostic Results supports delivery of service. 70% of $64.00 = $45.00 x 2 = $90.00; therefore, no additional reimbursement recommended. |
| | 95904-27 x 6 | $60.89 x 6 | $42.62 x 6 | | $64.00 ea sensory nerve | | Electrodiagnostic Results support delivery of service. 70% of $64.00 = $45.00 x 6 = $270.00; therefore, no additional reimbursement recommended. |
| TOTAL | | $1,130.00 | $732.00 | | | | The requestor is not entitled to additional reimbursement. |

This Decision is hereby issued this 1st day of March 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

**ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 12-6-02 through 4-9-03 in this dispute.

This Order is hereby issued this 1st day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

February 24, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION**
**Amended Determination C**

**MDR Tracking #: M5-04-0095-01**

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ___ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History
This case concerns a male who sustained a work related injury on ___. The patient underwent a cervical MRI on 6/5/02, a cervical myelogram on 7/30/02 and a discogram as well as a Marcaine and steroid injection on 7/3/02. The diagnosis for this patient is lumbar herniated nucleus pulposus at the L4-L5, L5-S1 level and L4-L5 spinal stenosis. On 10/14/02 the patient underwent a total discectomy/laminectomy/neural foraminal decompression, installation of intervertebral prosthesis, installation of bone graft, intertransverse fusion, segmental pedicle screw fixation at the L4-5 and L5-S1 levels. Postoperatively the patient was treated with an extensive rehabilitation program and oral medications.

Requested Services
Sensory nerve conduction test, Somatosensory test, Grp. Therapeutic procedures, therapeutic procedures, electric stimulation, therapeutic activities, joint mobilization, myofascial release and office visits from 12/6/02 through 4/9/03.

Decision
The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

Rationale/Basis for Decision
The ___ chiropractor reviewer noted that this case concerns male who sustained a work related injury to his lumbar back on ___. The ___ chiropractor reviewer also noted that the diagnoses for this patient included lumbar herniated nucleus pulposus at the L4-L5, L5-S1 level and L4-L5 spinal stenosis.

The ___ chiropractor reviewer further noted that the patient underwent back surgery on 10/14/02 that was followed by postoperative therapy. The ___ chiropractor reviewer explained that the provided records do not document what group activities were performed. The ___ chiropractor reviewer also explained that on or about 1/13/03 the patient was switched to one on one supervised activities for 2 hours a day without any specific documentation. The ___ chiropractor reviewer further explained that the documentation showed a fluctuation in the patient's pain. However, the ___ chiropractor reviewer noted that the documentation provided included letters from the treating physicians indicating that the therapy was helping. The ___ chiropractor reviewer explained that the remaining procedures listed are standard of care for the severity of this patient's diagnosis. Therefore, the ___ chiropractor consultant concluded that the sensory nerve conduction test, Somatosensory test, electric stimulation, joint mobilization, myofascial release and office visits from 12/6/02 through 4/9/03 were medically necessary to treat this patient's condition. The ___ chiropractor consultant also concluded that 1 unit of group therapeutic procedures (97150) and 2 units of therapeutic activities (97530) and two units of therapeutic procedures (97110) per day from 12/6/02 through 4/9/03 were medically necessary. However, the ___ chiropractor consultant further concluded that the remaining group therapeutic procedures and therapeutic activities from 12/6/02 through 4/9/03 were not medically necessary to treat this patient's condition.

Sincerely,